

General Information Letter: Withholding is not required on payments of prizes in sporting contests.

February 16, 1999

Dear:

This is in response to your letter dated February 4, 1999. Given the nature of your inquiry and the information you provide, I am responding with a General Information Letter. This is not to be taken as a statement of Department policy or as a binding ruling by the Department. As general information gathered in response to your particular questions, however, I hope that it is helpful to you. See 86 Ill. Adm. Code 1200.120(b) and (c).

In your letter you have stated the following:

Enclosed, please find a copy of your letter to me regarding the Illinois withholding requirements for the xxxx xxxxx'x xxxx. The last paragraph from the first page reads as follows:

In a situation exhibiting facts such as those briefly described in your correspondence, it appears that withholding of Illinois income tax would not be required.

As we quickly approach this year's event, I would like to clarify whether or not Illinois income tax must be withheld from contestants receiving prize monies. It is unclear to me as to the status of the withholding requirements.

Response

Section 701 of the Illinois Income Tax Act (IITA) establishes that an employer must withhold Illinois income tax on compensation and other payments, if withholding from those payments is required by the Internal Revenue Code. In your earlier letter you said that all prize monies awarded in the xxxx xxxxx'x xxxx will be reported to the IRS using form 1099MISC, but that the IRS does not require you to withhold taxes from the prizes. If it is accurate that the IRS does not require withholding from the prizes, then Illinois will not require withholding.

The statute is clear that Illinois follows IRS withholding requirements. Neither this letter nor the earlier letter from Mr. Donley have been able to give you binding assurance of the Illinois treatment, but only because we are not fully conversant with the facts on which you base your conclusion about IRS treatment. You may proceed on Illinois withholding with the same confidence that you do so with federal compliance.

If you do not withhold, some reporting is required of payments such as those that you briefly describe. IITA §1405.2 requires informational reporting for payments under personal service contracts and IITA §1405.3 requires informational reporting for certain payments for prizes and awards. I enclose a copy of those statutory sections for your information. The earlier letter enclosed a copy of the proper form.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp
Staff Attorney -- Income Tax